

To: Symmes, Brian[Symmes.Brian@epa.gov]
Cc: Linda ADAO[linda.adao.us@gmail.com]; Daniel Rosenberg[drosenberg@nrdc.org]; Shannon, Julie[Shannon.Julie@EPA.GOV]
From: Barry Castleman
Sent: Mon 10/24/2016 9:49:48 PM
Subject: Re: ADAO Chlor-alkali FOIA conference call
Chlorine Producers in US.pdf

As we explained, we attach overriding importance to receiving records of EPA inspections and regulatory actions (including correspondence and reports) relating to asbestos exposures and pollution from asbestos diaphragm cell chlor-alkali plants.

The other thing we want to know is which US chlor-alkali plants are currently using asbestos diaphragm cells. This is something EPA could find out with some phone calls to the companies and/or perhaps by checking the TRI if asbestos releases are included there for the plants of interest. [This information might also be available from the industry trade associations ACC and CI, but I have more trust in what we could learn from the companies themselves.]

Looking at the attached Chlorine Institute pamphlet 10, Table 1, you can see how to do this. The Sabic plant in Indiana is described as built in 1976, cell type "OxyTech H2A Diaphragm '95, '96." This appears to me to be a diaphragm cell plant that had some units added or converted to newer diaphragm technology in the mid-1990s. I would think these new cells are non-asbestos diaphragms because of the dates. This leaves open the question of whether some asbestos diaphragm cells are still operating at this plant.

Occidental's plant in Convent, Louisiana is another example. Built in 1981, the cell type listed is "OxyTech MDC 55 diaphragm '95." That appears to be a diaphragm cell plant built in 1981, some (or all?) of whose cells were converted to non-asbestos diaphragms or added in 1995. It is a priority for us, and we presume for EPA, to determine how much of current US chlorine capacity is asbestos diaphragm cells, where those plants are, and to start a conversation with industry about the commercial availability of (conversion to) non-asbestos diaphragm and membrane cell technology.

We look forward to hearing further from you shortly.

Barry

On Thu, Oct 20, 2016 at 7:24 PM, Symmes, Brian <Symmes.Brian@epa.gov> wrote:

Thank you as well for our discussion and your clarifications. I appreciate your understanding regarding the broad nature of the request and the challenges in producing some of the requested material. I also appreciate the explanation of your key interest in obtaining all information regarding exposure to asbestos at chlor-alkali facilities and acknowledge your interest in acquiring this material as quickly as possible.

As I indicated, there are several areas where your request will require attention in other

offices at EPA. We will forward your request to those offices for responses as noted below. I cannot guarantee those offices will have responsive material. My office -- the Office of Chemical Safety and Pollution Prevention -- can likely respond expeditiously given my personal familiarity with much of the material we have in our possession. While other divisions within our office may need to conduct a search for responsive material that I am not familiar with, I will endeavor to produce this material on a rolling basis. In other words, as we find responsive material, we will make it available via FOIA Online rather than wait till all searches are completed.

As we discussed, elements of the request may be addressed through publicly available information. In some instances, I am able to direct you to those sources, as noted below. Also, as we discussed, other elements of the request would appear to involve material that is either proprietary or in some way confidential. As you noted, your past attempts to request import data from other agencies were denied. My understanding -- noting I am not a FOIA expert and have not consulted with the organizations responsible for that data -- is the information regarding specific imports is restricted under confidentiality agreements between agencies. There may be policies or regulations I'm not familiar with that also govern the release of this information.

Another point to reemphasize, is that your request includes material dating from 1972. As a general matter, depending on the nature of the material, the further back we go in history, the less material to be found. That said, among the publicly available material not producible under a FOIA request, you will find material in the public docket that may be of interest.

Per Item 1 of your request, we will produce any non-proprietary information in our possession. Other offices may also have responsive material.

Per Item 2, we clarified that this request, while similar to Item 1, is for all facilities using the diaphragm cell process, both asbestos and non-asbestos. Again, other offices in EPA may have responsive material.

Per Item 3, we clarified that this related to company reports by manufacturers regarding their use of asbestos diaphragms, not all company reports from manufacturers who might coincidentally have a facility that uses asbestos diaphragms. This is still somewhat broad, in that the term "report" may be interpreted differently. While I'm not aware of responsive documents in my own program, we will conduct a search, and other offices in EPA may have responsive material.

Per Item 4, while I'm not aware of any responsive documents in my own program, other offices in EPA may have responsive information.

Per Item 5, we consider trade journal articles to be publicly available and would not produce these materials. While I'm not aware of what might be available at this source, you may find some assistance in this regard through the EPA Library system (<https://www.epa.gov/libraries/library-services-public>).

Per Item 6, we are unlikely to have any responsive material regarding import data we can release, as I noted above, and typically direct public inquiries to the USGS data, which you are familiar with.

Per item 7, while I'm not aware of any responsive documents in my own program, other offices in EPA may have responsive material.

Per Item 8, while I'm not aware of any responsive documents in my own program, other offices in EPA may have responsive material.

Per Item 9, the primary source of release information is the publicly available Toxics Release Inventory. There are chlor-alkali facilities that have filed reports regarding asbestos (the reports themselves are publicly-available). Per our conversation, I will follow up separately with you regarding use of the TRI search tool at <https://www.epa.gov/toxics-release-inventory-tri-program>. There may also be reporting under the TSCA Chemical Data Reporting rule. While not a "release" reporting tool, there may be useful information here: https://java.epa.gov/oppt_chemical_search/. Other EPA offices may have responsive material related to releases, although I am not sure if any asbestos release data would be collected under other statutes.

Per Item 10, we will forward this request to the Office of Air and Radiation. I do not believe my program has any responsive material.

Per Item 11, we will forward this request to the Office of Enforcement and Compliance Assurance. I do not believe my program has any responsive material.

Per Item 12, we will forward this request to the Office of Enforcement and Compliance Assurance. I do not believe my program has any responsive material. Per our conversation, I note that OECA has searchable public databases for enforcement actions and settlements at <https://www.epa.gov/enforcement/cases-and-settlements>.

Per Item 13, we believe all the material regarding AIA responses are in the public docket. I've attached a list of those publicly-available materials.

I've also attached the list of publicly-available documents included in the public docket for the 1989 Asbestos Ban and Phaseout Rule. I suspect there may be materials of interest here, although the list runs for several hundred pages over two files. There are several documents with "chlor-alkali" in the title. My understanding is these materials are available at the public docket on microfiche. Frankly, I'm not sure how access to the public docket works these days but will pass along information on this separately.

Per your request during our conversation, one company that provides proprietary information I am aware of is at <https://www.ihs.com/products/chemical-economics-handbooks.html>. Note I'm not in a position to comment on the quality or value of their products.

Per the documents that will be produced under this FOIA request, I believe the requester receives notification as documents are uploaded to the FOIA Online system and then made available after a short review process. As noted above, I anticipate documents -- however limited in number those may end up being -- will be produced on a rolling basis. I expect a small number of documents will enter that system as soon as next week.

I hope this is helpful and consistent with your understanding of our conversation yesterday.

Brian Symmes, Deputy Director
National Program Chemicals Division
Office of Pollution Prevention & Toxics/Office of
Chemical Safety & Pollution Prevention
U.S. Environmental Protection Agency
202-566-1983

-----Original Message-----

From: Linda ADAO [mailto:linda.adao.us@gmail.com]
Sent: Wednesday, October 19, 2016 6:27 PM
To: Symmes, Brian <Symmes.Brian@epa.gov>
Cc: Barry Castleman <barry.castleman@gmail.com>; Daniel Rosenberg
<drosenberg@nrdc.org>
Subject: ADAO Chlor-alkali FOIA conference call

Dear Brian and Julie,

Thank you for the excellent conference call today.

Attached are letters from Senators Boxer, Tester, Feinstein, and Durbin.

ADAO will be sending you more than 100 other letters urging the EPA to prioritize asbestos on the December 2016 top ten high-risk chemical list.

We look forward to your email tomorrow outlining the next FOIA steps.

Thank you,

Linda

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